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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/615,978 07/14/00 KLEMP

W P01880US1

026271 QM12/0718
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1301 MCKINNEY
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HOUSTON TX 77010-3095

EXAMINER

STEPHENS, J.

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

07/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/615,978

Applicant(s)

KLEMP ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-37 is/are rejected.
- 7) ☒ Claim(s) 32 and 38 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Priority

1. If applicant desires priority under 35 U.S.C. 120 based upon a previously filed copending application, specific reference to the earlier filed application should be made in the oath/declaration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 29 recites "said topsheet is spaced from said topsheet". The examiner is unclear how the topsheet can be spaced from itself. The claim will be examined with the understanding that the topsheet is spaced away from the body-facing surface of the article.
4. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 31 does not cite an independent claim as a basis for dependency. The claim will be examined as if the applicant intended for the claim to depend from claim 30. However, the claim dependency must be corrected in subsequent correspondence.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claim 1-37, as best understood by the examiner, are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (USPN 6258196 B1).

Regarding claims 1-5, 8, 13, 16, 18-22, 30, 31, and 33, Suzuki discloses an absorbent article comprising a topsheet, backsheet, and an absorbent core disposed between (Figure 32). Suzuki discloses an absorbent composite comprising an absorbent layer having cellulose microfibrils (A/B, col. 6, lines 39-52), super absorbent polymers (col. 21, lines 35-50), and a nonwoven substrate supporting said absorbent layer (B). Suzuki discloses an example where layer (B) forms an absorbent and a backsheet (Example 9). The absorbent layer may be coated, particularly if bicomponent fibers are used (col. 7, lines 29-38).

At least one of the backsheet, topsheet, and absorbent core is constructed of the absorbent composite (Figures 23, 24, and 33). The absorbent core may include a prefabricated sheet of the absorbent composite (col. 9, 19-24). The topsheet may be first layer A/B and the core B, or the topsheet may be A/B and the core may be layer A/B (Figures 17, 18, and 22).

The composite may also be contained in side cuffs or side-wrapping elements (Figures 39, 40, and 41).

7. Regarding claims 9-11, 25, 26, and 37, the composite may comprise longitudinally spaced parallel lines or pleats, creating wicking zones between the absorbent layers and exposing the underlying substrate (Figure 8)

Regarding claims 12 and 27, see Figure 19.

In reference to claim 14, see Figure 33.

8. With respect to claims 15 and 28, either the absorbent layer or the nonwoven substrate layer may comprise a concentration of pulp material (col. 3, lines 45-52). Therefore, the absorbent composite may contain pulp material disposed between layers as claimed (Figures 18 a/b, 22, and 30b).

Regarding claim 29, as best understood by the examiner, Figures 37 and 38 disclose a sanitary napkin with a tubular sheet 2. Sheet 2 comprises outer layer 2a (A component) and inner layer 2b(B component). Sheet 2 functions as topsheet and backsheet and is sealed at area 4. Thus, alternating sections of the topsheet are sealed to the backsheet and include at least one absorbent layer.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 6, 23, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki. Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki discloses the polymeric materials are adapted to swell such as in Figure 16b. Suzuki further discloses that the 'waves' are hydrophobic which inherently creates a water impervious area when the polymeric materials swell. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create an liquid impervious material, since Suzuki teaches creating a liquid barrier due to the swelling of the absorbent particles.

12. Claims 7, 17, 24, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Gross (USPN 5403870). Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the concentration and swell rate of the superabsorbent materials. Gross discloses a water-swellaable, water-insoluble polymeric material suitable for use in absorbent articles. Gross further discloses that the amount of cross-linking is proportional to its water-swellaability. It would have been obvious to one having ordinary skill in the art at the

Art Unit: 3761

time the invention was made to modify the composite of Suzuki with a concentration of crosslinking agent suitable for the end product as taught by Gross. Additionally, discovering an optimum value of a result effective variable only involves routine skill in the art.

Allowable Subject Matter

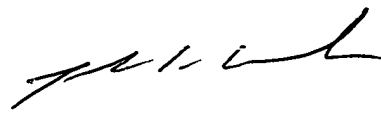
13. Claims 32 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703)308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703)308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

Jacqueline F Stephens
Examiner
Art Unit 3761



July 15, 2001